

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
Shinichi YAMADA et al.)	Group Art Unit: 1611
)	
Application No.: 09/857,495)	Examiner: Gina C. YU
)	
Filed: June 28, 2001)	
)	
For: COSMETIC COMPOSITION)	Confirmation No.: 5364
COMPRISING AT LEAST A)	
CATION, A LIQUID FATTY)	
ALCOHOL AND AT LEAST A)	
CERAMIDE TYPE COMPOUND)	
AND METHOD USING SAME)	<u>VIA EFS-WEBB</u>

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

In response to the Notification of Non-Compliant Appeal Brief (Notification) dated March 27, 2009, and in support of the Notice of Appeal filed December 4, 2008, Appellants submit an amended Status of the Claims section to correct the alleged deficiencies in the Appeal Brief filed March 2, 2009.

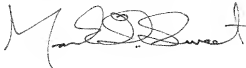
The Status of the Claims section in the Amended Appeal Brief was deemed defective for allegedly failing to list the status of all of the claims and failing to identify the appeal claims. Notification at 2. Appellants have amended this section to specifically define which claims are under appeal.

As instructed in the Notification, Appellants are submitting only the defective section. The fee required under § 41.20(b)(2) was previously paid with the original Appeal Brief submitted on March 2, 2009.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

A handwritten signature in black ink, appearing to read 'M. Sweet', written over a horizontal line.

Date: April 27, 2009

By: _____
Mark D. Sweet
Reg. No. 41,469

III. Status Of Claims

Claims 19-82 are pending in this application.

Claims 1-18 were canceled by Appellants.

The Examiner has rejected claims 19, 27-31, 35-54, 56, 57, 61-64, 69-71, 74, and 79-81 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,693,677 to Lambers et al. (*Lambers*) in view of U.S. Patent No. 5,939,082 to Oblong et al. (*Oblong*).

The Examiner has rejected claims 19, 20, 27-29, 32, 33, 52-54, 56-58, 61, 64-66, 69, 72-76, and 82 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,110,450 to Bergmann (*Bergmann*) in view of Flick, Cosmetic and Toiletry Formulations, 1995 (*Flick*).

The Examiner has rejected claims 21-26, 34, 59, 60, 67, 68, and 77-78 under 35 U.S.C. § 103(a) as unpatentable over *Bergmann* and *Flick* in view of U.S. Patent No. 6,312,674 to Maubru (*Maubru*).

The Examiner has rejected claims 35-51, 62, 63, 70, 71, 80, and 81 under 35 U.S.C. § 103(a) as unpatentable over *Bergmann*, *Flick*, and *Maubru* in view of U.S. Patent No. 6,120,757 to Dubief et al. (*Dubief*).

The Examiner has rejected claims 35-51, 55, 62, 63, 70, 71, 80, and 81 under 35 U.S.C. § 103(a) as unpatentable over *Bergmann* and *Flick* in view of U.S. Patent No. 5,587,155 to Ochiai et al. (*Ochiai*).

Claims 19-82 are under appeal. A complete listing of the pending claims was included in the Appendix attached to the Appeal Brief filed on March 2, 2009. No claims have been allowed.